

7455
DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-192589

DATE: August 24, 1978

MATTER OF: Bates and Associates, Inc.

DIGEST:

1. Bidders' capability to comply with specifications is matter of responsibility to be determined by the contracting officer and will not be reviewed by GAO except in circumstances not present here.
2. Contractors' future compliance with specifications involves matter of contract administration and is not for resolution under GAO bid protest function.
3. Where protester's initial submission indicates protest is without merit, GAO will render decision on matter without requesting report from procuring agency.

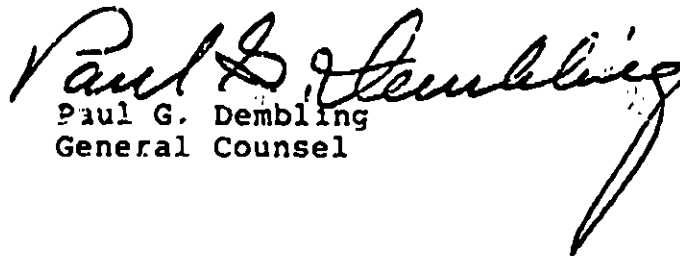
Bates and Associates, Inc. protests two recent procurements conducted by the Naval Air Station, Patuxent River, Maryland. Both solicitations, N00421-78-B-0135 and N00421-78-Q-9088, called for furnishing metal storage buildings. The protester believes that the awardees could offer lower prices than the protester's only if they will not meet the specifications. The protester requests that the award process be reviewed to insure full compliance with the specifications.

To the extent that this protest concerns the agency's pre-award determinations that proposed award-ees will perform in full compliance with the specifications, it involves a challenge to the affirmative determination of responsibility. This Office does not review protests of affirmative determinations of responsibility, except in circumstances not relevant here. See Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Data Test Corporation, 54 Comp. Gen. 499 (1974), 74-2 CPD 365, affirmed 54 Comp. Gen. 715 (1975), 75-1 CPD 138.

To the extent that the protest may reflect a belief that the contractors will deliver and the Government will accept buildings which are not in full compliance with the specifications, it relates to a matter of contract administration which is not subject to resolution under our bid protest functions. General Automatic Corporation, B-190216, January 5, 1978, 78-1 CPD 8.

Thus, this case falls within the ambit of our decisions which hold that where it is clear from the protester's initial submission that the protest is not reviewable, we will dismiss the matter on the basis of the protester's submission without requesting a report from the procuring agency under our Bid Protest Procedures. 4 C.F.R. Part 20 (1977). See Western Branch Diesel, Inc., B-190407, December 21, 1977, 77-2 CPD 494 and the cases cited therein. Nevertheless, we have been assured informally by the Naval Supply Systems Command that, in accordance with its usual practice, the merits of the protester's allegations will be investigated by the procuring office.

Accordingly, this protest is summarily dismissed.


Paul G. Dembling
General Counsel